ROYAL NORWEGIAN MINISTRY OF CLIMATE AND ENVIRONMENT

EFTA Surveillance Authority
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Your ref	Our ref	Date
Case No: 78085, Document No: 1055823	15/2910-	20 May 2020

Reply to letter - complaint against Norway concerning the award of the exclusive rights for collection and treatment of waste

Dear Madam/Sir,

Reference is made to letter 20 February 2020 from EFTA Surveillance Authority (the Authority), inviting the Norwegian government to submit observations on the content. Reference is also made to the granted extension of deadline to 20 May 2020.

In its letter, the Authority assesses EEA rules on public procurement, national law on procurement and waste management and their application to the specific cases addressed in the complaint. The Norwegian government will in the following comment on the elements of the Authority's general assessment we do not agree with, related to interpretation of *Remondis*/Article 1 (6), the notion of exclusivity in the exclusive rights regime and the Authority's introduction of a new "strict-control"-criterion. The Norwegian government will also comment on the two specific cases where the Authority has identified potential breaches of EEA-law: Follo REN IKS' award of exclusive rights for the sorting and treatment of household waste to ROAF IKS and Namsos municipality's award of exclusive right for collection and treatment of commercial waste from municipal buildings and institutions to MNA.

The Authority's conclusions in these two cases are contrary to the conclusion in its pre-closure letter of 30 January 2018 (re-issued on 11 June 2018), where the Authority found no breaches of EEA-law and therefore informed of their intention to close the case.

The Authority's general assessment

If the Authority's approach to the exclusive rights regime expressed in its letter 20 February 2020 was to be followed, it would substantially impede Norwegian municipalities' ability to

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achieve a sustainable handling of their responsibilities pursuant to the Pollution Control Act regarding collection and treatment of waste. Consequently, Norway's ability to achieve environmental targets set forth in the EU Waste Framework Directive and national waste management regulations would be affected.

Contrary to the pre-closure letter of 30 January 2018, the Authority does not include EEA rules on waste management among the rules relevant to its assessment of the cases. Although the Authority seems to acknowledge the environmental concerns, it does not appear to take them and the particularities of the waste sector sufficiently into account. We will thus elaborate on the relevant EEA rules on waste management and emphasize some environmental aspects the Authority should take into account, in the following.

EEA rules on waste management and environmental aspects to be considered
Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives ("Directive 2008/98"), now revised in Directive 2018/851/EU, sets out the basic concepts and definitions related to waste management.

In the revised Directive, municipal waste is defined in Article 2b) as follows:

2b."municipal waste" means:

(a)mixed waste and separately collected waste from households, including paper and cardboard, glass, metals, plastics, bio-waste, wood, textiles, packaging, waste electrical and electronic equipment, waste batteries and accumulators, and bulky waste, including mattresses and furniture;

(b)mixed waste and separately collected waste from other sources, where such waste is similar in nature and composition to waste from households;

Municipal waste does not include waste from production, agriculture, forestry, fishing, septic tanks and sewage network and treatment, including sewage sludge, end-of-life vehicles or construction and demolition waste.

This definition is without prejudice to the allocation of responsibilities for waste management between public and private actors;

According to the definition, municipal waste includes both household waste and similar waste from other sources – i.e. also the municipalities' own commercial waste from public services.

According to the preamble paragraph 10, the definition of municipal waste is introduced for the purposes of determining the scope of application of the preparing for re-use and recycling targets and their calculation rules. It is neutral with regard to the public or private status of the operator managing the waste. Hence, both waste from households and waste from other sources managed by or on behalf of municipalities or directly by private operators, are considered as municipal waste.

Preamble paragraph 6 explains the complexity of managing this waste stream, and how important it is to have a well-developed and efficient municipal waste management system:

Municipal waste constitutes approximately between 7 and 10 % of the total waste generated in the Union. That waste stream, however, is amongst the most complex ones to manage, and the way it is managed generally gives a good indication of the quality of the overall waste management system in a country. The challenges of municipal waste management result from its highly complex and mixed composition, direct proximity of the generated waste to citizens, a very high public visibility and its impact on the environment and human health. As a result, the management of municipal waste requires a highly complex system including an efficient collection scheme, an effective sorting system and a proper tracing of waste streams, the active engagement of citizens and businesses, an infrastructure adjusted to the specific waste composition, and an elaborate financing system. Countries which have developed efficient municipal waste management systems generally perform better in overall waste management, including the attainment of the recycling targets.

Preamble paragraph 7 states that the allocation of responsibilities to handle municipal waste is a national concern and the choice of system remains in the responsibility of Member States:

Experience has shown that, irrespective of the allocation of responsibilities for waste management between public and private actors, waste management systems can help to achieve a circular economy and that the decision on the allocation of responsibilities frequently depends on geographical and structural conditions. The rules laid down in this Directive allow for waste management systems where the municipalities have the general responsibility for collecting municipal waste, for systems where such services are contracted out to private operators, or for any other type of allocation of responsibilities between public and private actors. The choice for any such systems, and whether or not to change them, remains the responsibility of Member States.

The Norwegian government also refers to the principles of self-sufficiency and proximity in Article 16. According to Article 16, the state shall take appropriate measures to establish an integrated and adequate network of waste disposal installations and of installations for the recovery of mixed municipal waste. The network shall be designed to enable the community as a whole to become self-sufficient in waste disposal as well as in the recovery of the mixed municipal waste. Further, the network shall enable that waste is disposed of in one of the nearest approproate installations.

Regarding recycling and recovery of "municipal waste", new and ambitious targets defined in EU's revised Waste Framework Directive[1], which is a central part of EU's policy on circular economy, are more stringent.

[1] Waste Framework Directive (2008/98/EC) as last amended by Directive (EU) 2018/851

It follows from the Norwegian waste management strategy that establishing centralized sorting facilities for mixed waste is required in order to meet these new targets. There is also a need for improved sorting technology to increase recycling in Norway.

Public authorities assume a main social and environmental responsibility in the society. The municipalities are responsible to include environmental requirements in their planning activities[2] – also regarding topics such as waste management. The municipalities may even commit to more ambitious actions than set out in the Pollution Control Act since these requirements are considered as minimum.

Although private sector is responsible for the handling of its own commercial waste, the municipalities undertake the overall local responsibility to reduce emissions to soil, air and water – *in addition* to its statutory responsibility to handle household waste and its own commercial waste. Consequently, having the discretion to decide how such waste management is to be solved may be crucial in order to meet environmental obligations.

In general, the municipalities may to a great extent adopt the local measures they find suitable in order to take care of the overall environmental objectives and achieve environmental targets as explained above. As modern waste management is a cost intensive undertaking, the municipalities have collaborated within waste management by establishing rather large installations in order to reduce the overall treatment costs. These installations are prepared for reception and treatment of predicted increasing amounts of waste in the future. This requires a stable supply of significant amounts of waste over the whole operation period of the plant. Hence, several municipalities resort to the award of exclusive rights to inter-municipal waste companies for waste management since this solution allows access to larger amounts of waste. Accordingly, the use of exclusive rights for both household waste and the municipalities' own commercial waste is considered as an effective measure with regard to the achievement of environmental targets: It gives the municipalities opportunity to ensure that a larger share of the municipal waste can be sent to modern sorting and treatment facilities.

In addition, it is obviously an advantage to handle these waste streams (household waste and the municipalities' own commercial waste) jointly. By merging these waste streams, the municipalities are enabled to utilize its own competence and waste infrastructure, resulting in a greater goal attainment as regard national, regional and local environmental targets – as well as economic benefits.

The Norwegian government emphasizes that an assessment of the use of exclusive rights related to waste management must take the environmental considerations into account.

[2] According to the Planning and Building act

Interpretation of the exception for transfer of powers and responsibilities/competences in Remondis/Article 1(6) of Directive 2014/24 and its application to commercial waste
The Authority claims that the obligations pursuant to Section 32 of the Pollution Control Act for municipalities to ensure proper management for the waste they generate do not differ from the obligations on private undertakings, and consequently does not consider it a *public task*. Based on this deduction, the Authority argues that arrangements concerning commercial waste cannot be considered as transfers of powers and responsibilities/competences, which is a requirement in order to fall under the Article 1 (6) exception.

The Norwegian government disagrees as regard the conclusion that management of the municipalities' own commercial waste is not considered a public task. Firstly, in EEA-context, the commercial waste from municipal buildings and institutions falls under the category of "municipal waste"[3]. Management of waste, which includes municipal waste, falls under the notion of services of general economic interest. This is confirmed by the Authority on page 13 of its letter, where it states that: "[w]*aste management is capable of being considered as a service of general economic interest".* According to Article 59 (2) of the EEA-agreement, such services are subject to the rules of the EEA Agreement in so far as the application of such rules does not, in law or in fact, obstruct the performance of their tasks. When considering the application of the rules of the EEA Agreement to such services, account must therefore be taken of their special character.

Moreover, the definition of "municipal waste" is without prejudice to the allocation of responsibilities for waste management between public and private operators. Any national definition or organisation of waste does not alter the fact that management of the waste generated by municipalities through the performance of their public services is part of the notion of services of general economic interest. It should also be taken into consideration that the commercial waste the municipality is responsible for, derives directly from its obligations by law to provide services of public interest, i.e schools, kindergartens, elderly care etc. The municipalities' management of their own waste from public services can therefore also be considered part of their public task to provide necessary public services. It is the municipalities' obligation to ensure proper management of this waste.

Consequently, as public authorities are obligated by law to perform these public services and to ensure proper management of the waste they generate, it should be considered a *public task.* A narrow interpretation of "public tasks" would make it more difficult for the municipalities to arrange for an effective overall handling of all municipal waste within their competence (both household waste and their own waste from municipal buildings and institutions). The municipalities have and undertake, as explained above, quite demanding environmental responsibilities that differ from private undertakings – *in addition* to its statutory responsibility to handle household waste and its own commercial waste.

[3] Now defined in Article 3 (2b) of the Waste Framework Directive (2008/98/EC) as last amended by Directive (EU) 2018/851.

As contracting authorities pursuant to Article 1(1) of Directive 2014/24/EU, municipalities are positioned to transfer the responsibilities to perform these tasks to other contracting authorities without a public tender procedure pursuant to the exception in *Remondis*/Article 1(6) of Directive 2014/24/EU, provided that also the other conditions in this exception are met.

The Authority's assessment of the exclusive rights regime – New requirements regarding exclusivity

In the Authority's assessment of the exclusive rights regime and the definition of an "exclusive right", the Authority states that the awarding body must be *capable of controlling the market* to limit the ability of other entities to carry out the activity within a certain area. The Authority claims that Norwegian municipalities cannot provide *genuine* exclusivity for commercial waste, since Norwegian municipalities do not have a monopoly for all these fractions from all sources and cannot control the entire market. The Authority concludes that exclusive rights therefore cannot be awarded in relation to the municipal's own commercial waste.

The Norwegian government is of the opinion that the Authority interprets the notion of exclusivity more restrictively than there are legal grounds for in EEA-law. There is no definition of the term "exclusive right" in the Directive 2014/24 on public procurement, and the definitions found in various other instruments in EEA-law are quite broad and vary[4]. All the definitions of exclusivity indicate that other entities, to a certain extent, must be prevented from carrying out the same activity, but it varies whether the limitation is only geographical or also related to the ability of other economic operators to carry out similar activities. The diverse regulations leave limited room for analogical deductions, since the extent of exclusivity required is not consistent in the various EEA-instruments. Hence, the Norwegian government questions how the Authority can base its conclusions on such a restrictive understanding of "exclusive rights" in the letter 20 February 2020, especially considering that the Authority previously has expressed a much broader understanding of the term. The Norwegian government agrees with the view expressed by the Authority in its pre-closure letter to the complainant 30 January 2018, p. 7, in that: *"The understanding of exclusive rights under EEA law is relatively broad, as public authorities, depending on their respective field of competence within the State, may determine both the economic activity and the geographical area in which the service provider entrusted with the exclusive right shall operate."*

As the awarding body may determine the economic activity in which the service provider entrusted with the exclusive right shall operate, the awarding body *can limit the scope of exclusivity, within their competence*. Applying this to waste management, the municipalities may determine that the exclusive right is limited to specific fractions of waste, and also to specific sources of waste or other types of limitations. There are numerous ways to limit the

[4] See for instance the definition in Directive 2006/111/EC article 2 letter f) *"exclusive rights means rights that are granted by a Member State to an undertaking through any legislative, regulatory or administrative instrument, reserving the right the provide a service or undertake an activity within a given geographical area".*

scope of exclusive rights when it comes to waste: it can be limited to unsorted or sorted waste, or be based on the nature of the waste or certain treatment or disposal options. An exclusive right can for instance be limited to treatment of organic waste generated by households or commercial waste generated by municipal buildings and institutions. The geographical area would obviously be limited to the municipality in question.

The Authority seems to find it decisive that the awarding body must be capable of controlling the market, however, such requirement cannot imply that the awarding body controls the entire waste market. Obviously, monopoly would enable the awarding body to transfer exclusive rights, however, to our knowledge there is no EEA case-law which consider monopoly a requirement. The Norwegian government's comprehension of "exclusive right" effectively limits other private entities from performing the *same* services within the given geographical area. In other words; transfer of a reserved right to perform waste management services may be considered as within the competence of the municipality. We refer to our letter to the Authority 7 July 2017 p. 2-3 for further explanations of the Norwegian government's view in this regard.

The Authority has pointed out that the Norwegian approach and understanding of exclusivity would not differ much from contractual exclusivity. First, we do not see the relevance of that argument. As previously explained in letter 14 February 2019, it is not decisive to the understanding of exclusive rights whether or not the scope of exclusive rights extends beyond contractual exclusivity. Nevertheless, there are also important differences. An exclusive right is established through law, regulation or administrative provision, and must be respected by all, while contractual exclusivity follows from the provisions of a contract and is thus binding only upon the parties of the contract. Another difference is that exclusive rights can be awarded for a longer time and thereby provide long-term foreseeability. This is important for the municipalities, in order to make the necessary cost-intensive investments for meeting environmental standards for waste management. As explained in previous correspondence, common reasons for awarding exclusive rights are to advance certain waste treatment solutions and ensure treatment solutions of high quality and efficiency, in order to meet the requirements defined by environmental targets.

Compatibility with the EEA Agreement – ESAs introduction of a new "strict control"-criterion
In its letter, the Authority emphasises that the award of an exclusive right must be compatible with the EEA Agreement, cf. Article 18/Article 11 of Directives 2004/18 and 2014/24. In section 6.4.3, the Authority assesses whether an open competition is required for the award of exclusive rights. It refers to the complainant's argument that even if an exclusive right is necessary to fulfil legitimate objectives such as protecting the environment in this case, it must be awarded based on an open tender procedure. According to the Authority, however, open tender procedures based on transparent and non-discriminatory criteria are not necessary where the operator to whom exclusive rights have been awarded is a public operator *subject to strict control* by the relevant public authorities. The Authority refers to *Sporting Exchange* in support of this view. According to section 7.3.4 of the letter, the

Authority claims that the authority receiving the exclusive rights must be subject to strict control by the *authority granting* the exclusive rights.

The Norwegian government fails to see the sense of such control-criterion as exclusive rights constitute an exception from the obligations in the public procurement directive to conduct an open tender process when contracts are entered into. The reintroduction of obligations for contracting authorities to award exclusive rights through open tender procedure based on the requirement that the exclusive rights must be compatible with the EEA Agreement, is contrary to the rationale behind the exceptions. The exceptions in Article 11 and Article 18 of Directives 2004/18 / 2014/24 on public procurement are aimed for cases where a competitive award procedure would constitute an unnecessary and inefficient use of public resources.

Even though the Authority seems to agree that a tender procedure is not necessary for exclusive rights, the Authority introduces a completely new "strict-control"-criterion to the exclusive rights regime, based on the following paragraph in Sporting Exchange:
"the principle of equal treatment and the consequent obligation of transparency were applicable in so far as the operator in question was not a public operator whose management was subject to direct State supervision or a private operator whose activities were subject to strict control by the public authorities".

The Norwegian government disagrees with the Authority's interpretation of the quoted paragraph. The judgment states that the operator which is awarded an exclusive right must be subject to direct State supervision. A public entity, such as an inter-municipal waste company, would in fact be subject to direct *State supervision* and obliged to comply with public law. According to Article 11, it is sufficient that the contracting authority is "governed by public law", cf. definition of contracting authority in art. 2 number 1 (1). The judgment does not establish an additional requirement concerning *ownership/strict control* between the contracting authorities. The requirement concerning "strict control" is related to a "private operator" being awarded an exclusive right and thus not a body governed by public law.

Additionally, it is important to note that the Sporting Exchange concerned service concession contracts that were *not* governed by any of the public procurement directives at that time. Consequently, the CJEU's assessment in that case was based on the fundamental rules of the EC Treaty. It led the Court to the conclusion that restricting the fundamental freedom to provide services by granting an exclusive right to a public operator whose management is subject to direct State supervision or to a private operator whose activities are subject to strict control by the public authorities, would not appear to be disproportionate in the light of the objectives pursued. This is in fact requirements similar to those of Articles 18/11 of Directives 2008/18 /2014/24.

On this background, the Norwegian government disagrees that there exists a general criterion of *strict control* in order to award an exclusive right to public entities. Applying a strict control criterion in order to award exclusive rights, would also render the Articles 18/11

meaningless as an exception in addition to and independent of the in-house exception pursuant to Article 12 of Directive 2014/24.

Concerning the Authority's assessment of the exclusive rights regime: application of Article 18/11 to the specific cases referred to in the complaint

The Authority claims there is a breach of EEA-law in the case of Follo REN IKS' award of exclusive rights to ROAF IKS, and further that a breach of EEA law would arise if the award by the municipality of Namsos to MNA is relied upon to award public services contracts pursuant to Article 11 of Directive 2014/24. The Norwegian government holds the opinion that there are no breaches of EEA-law in neither of the cases, and will explain our view in the following.

Follo REN and ROAF

The Authority makes a decisive point of the "strict control"-criterion, when it concludes that the arrangements between Follo REN and ROAF are in breach of the general principles of EEA-law. This conclusion builds on the requirement of compatibility with the EEA Agreement in Articles 18/11 and the assumption that the exclusive right restricts the freedom to provide services contrary to Article 36 of the EEA Agreement and could affect trade to such an extent as would be contrary to the interests of the Contracting Parties contrary to Article 59 of the EEA Agreement. The Authority argues that a procedure complying with general principles of EEA law, would have been a less restrictive means to meet the aims in this case than the award of an exclusive right.

As explained above, we do not agree that there exists such a "strict control"-criterion for awarding exclusive rights without a transparent competitive process. We do not find any breach of EEA-law in the fact that there is no ownership links or strict control between Follo REN and ROAF IKS. As both Follo REN IKS and ROAF IKS are contracting authorities pursuant to the definition in Article 2(1)(1) of Directive 2014/24, they fulfil the requirement of Articles 18/11 as to what kind of bodies that can grant and receive exclusive rights.

In addition, it can be questioned whether Article 36 on freedom to provide services and the condition in Article 59 even apply in this case. If these articles do not apply, they cannot be used as a legal basis for concluding that the exclusive rights granted by Follo REN to ROAF IKS are not compatible with the EEA Agreement. This case concerns a local Norwegian public contractor responsible for sorting and treatment of household waste originating from some Norwegian municipalities and a Norwegian facility which is the one being able to handle this waste for the Norwegian public contractor. All the relevant elements of this case therefore seem to be confined within Norway. According to the Court’s settled case-law, the provisions of the treaty on freedom of establishment and the freedom to provide services do not apply to a situation, all the relevant elements of which are confined within one single Member State, cf. C-292/12 Ragn-Sells para 70. If there are no other operators in the EEA who can offer the same services, the exclusive right does not amount to a restriction on the freedom to provide services contrary to Article 36, and it follows further that it is not necessary to assess whether the arrangements are justified. The exclusive rights transferred

to ROAF IKS covers sorting and treatment of household waste. To our knowledge, there is no cross-border market for the sorting of waste within the EEA-area. The complainant has not pointed to any examples of such similar facilities within or outside Norway. In *Ragn-Sells* para 72-73, the CJEU stated that there was nothing in the file submitted to the Court indicating that undertakings established in other Member States had been interested in treating the waste concerned, and concluded that it was therefore clear that such a situation is not in any way linked to any of the situations envisaged by EU law in the area of the freedom to provide services and freedom of establishment.

In any case, these provisions do not apply to waste management to the same extent as to other services. This follows from the fact that waste treatment, among other types of services of general economic interest which are provided in another Member State, is excepted from the provision on freedom to provide services in Article 16 of Directive 2009/123/EU pursuant to Article 17 of the directive. Furthermore, the principles of self-sufficiency and proximity set out in Article 16 of the Waste Directive (2008/98/EC) also provide ground for limitations to the freedom to provide services (cf. *Ragn-Sells).*

Namsos municipality - MNA
The Norwegian government primarily upholds its arguments in the letter of 21 August 2019 that the arrangements between MNA and Namsos municipality should be considered as transfers of powers and responsibilities/competences. As explained above under the general assessment, collection and treatment of the municipality's own commercial waste should be considered as performance of *public tasks*. We refer to our arguments in letter 21 August 2019 on p. 10 and 11 regarding the other conditions in Article 1 (6) of Directive 2014/24. The arrangements between Namsos municipality and MNA meet in our opinion the conditions in Article 1 (6) and fall outside the scope of Directives 2004/18 and 2014/24.

In the event that the arrangements are considered not to fulfil the conditions in Article 1(6), they would nevertheless fall within the scope of the exclusive rights' exception in Article 11 of the Directive. In our view, the Authority interprets the exclusive rights regime more restrictively than there are legal grounds for in EEA-law. Based on this interpretation, the Authority has stated in general that a municipality has no power to award a *genuine* exclusive right as regard the municipality's own commercial waste. As far as we can see, this is the only reason why the Authority reaches the conclusion that this award of exclusive rights would constitute a breach of EEA-law, if given effect. Consequently, we do not agree with the Authority's conclusion on this case.

As explained above, the Norwegian government disagrees with the general understanding the Authority has expressed on "exclusivity" and especially the narrow approach of requiring "*genuine* exclusivity". We are of the opinion that the municipalities may decide which area of waste management they can award exclusive rights within. Decisive in this respect is the scope of the municipalities' responsibility/competence.

Namsos municipality is responsible for and have competence in management of its own commercial waste. Consequently, the municipality can choose how they solve that task, whether they handle it themselves, use the in-house option, award an exclusive right or procure services by public tender. By awarding an exclusive right, Namsos municipality provides MNA with exclusivity for all its commercial waste. In our opinion, it is not relevant whether there exist other economic operators who handle similar waste types from other sources. An exclusive right within the waste management area is typically limited to a certain fraction, source etc.

Accordingly, the Norwegian government cannot find any breach of EEA-law in the arrangements between Namsos and MNA.

Conclusions

The Norwegian government has pointed out the following main points to the Authority's assessment in letter 20 February 2020:

- As public authorities are obligated to perform public services and to ensure proper management of the waste they generate, it should be considered as a *public task*. Municipalities are in a position to transfer the responsibilities to perform these tasks to other contracting authorities without a public tender procedure pursuant to the exception in *Remondis*/Article 1(6) of Directive 2014/24/EU, provided that also the other conditions in this exception are met.
- The Authority interprets the notion of *exclusivity* more restrictively than there are legal grounds for in EEA-law. The municipalities may determine that an *exclusive right* is limited to specific fractions of waste, to specific sources of waste or other types of limitations, within its competence. There is no requirement of monopoly for the entire waste market, in order to award exclusive rights in this area. Decisive in this respect is the scope of the municipalities' responsibility/competence. Exclusive rights can be awarded for all waste within the municipalities' responsibility; both for household waste and for the municipalities' own commercial waste. The Norwegian government's comprehension of "exclusive right" effectively limits other private entities from performing the *same* services within the given geographical area.
- The Norwegian government disagrees that there exists a criterion of *strict control* between the awarding authority and the awarded authority in order to award an exclusive right for public entities pursuant to Article 11 of Directive 2014/24/EU. The Authority's introduction of a completely new "strict-control"-criterion to the exclusive rights regime is based on mis-interpretation of the *Sporting Exchange*-judgment.
- There are no breaches of EEA-law in neither the case of Follo REN and ROAF or Namsos and MNA. The Authority's conclusions of breach or potential breach of EEA-law in the two concrete cases are based on its restrictive interpretation of public tasks and notion of exclusivity and incorrect introduction of a new "strict-control" criterion. The incorrect legal premises in the Authority's general assessment, leads the Authority in turn to incorrect conclusions in the concrete cases.

The Norwegian government would like to emphasise that the municipalities' discretion to decide how their waste management obligations are to be solved may be crucial in order to meet environmental obligations. When assessing the use of exclusive rights related to waste management, environmental considerations must be taken into account.

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